FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 1290 OF 2006

Office notes, office Memoranda of Coram, appearances, Court's orders or directions & Registrar's orders.	Court's or Judge's Orders

Mr. U.P. Warunjikar for the petitioner

Mr. F.R. Shaikh, Addl.P.P.

CORAM: SMT. RANJANA DESAI, J.

DATED:-21/12/2006

P.C.:-

By the impugned order the learned Judicial Magistrate, First Class, Nashik has rejected the application of the petitioner for discharge. He has observed that prima facie case is made out and, therefore, the petitioner cannot be discharged. So far as prayer of the petitioner that his case may be separated is concerned, the learned Magistrate has observed that no genuine reasons are present to persuade him to split up the case of

the petitioner. This order is challenged in the instant petition. The case is pending since 1996. In fact the learned Magistrate has in the impugned order observed that the case is eight years old and, therefore, there should be a speedy trial. He has directed the accused to remain present in the court and he has expedited the hearing.

Mr. Warunjikar , the learned counsel for the petitioner contended that there are several accused in this case, however, they are not attending the trial court regularly. The petitioner is, however, attending the court and he wants to see that the trial is concluded in the near future because on account of the pendency of this trial his promotional avenues are closed. The Custom Department is not considering him for promotion. Mr. Warunjikar also submitted that there is no prima facie case against the petitioner.

So far as prima facie case is

concerned I concur with the learned Magistrate. However, in the facts of this case I feel that the trial must be expeditiously disposed of. Pendency of the trial is causing great prejudice to the petitioner. In the circumstances the learned Magistrate is directed to try to dispose of the case within three months from the date of receipt of this order by him.

The learned Magistrate has sent report to this court pursuant to the direction issued by me. The report is dated 18/12/06. The report indicates that non-bailable warrants are issued against the accused 4, 5, 7, 13, 17, 21, 22, 24 to 31. Notices are also issued to their sureties. From the report of the learned Magistrate it is apparent that because the presence of the accused is not secured, the trial cannot be proceeded with. If this is so the learned Magistrate will consider the application of the petitioner for separating his trial afresh, if he is not able to dispose of the trial within three months.

I make it clear that I have not expressed any opinion on any aspect of the matter.

The petition is disposed of.

JUDGE.